

REMARKS

By this amendment, claim 9 has been cancelled and claim 1 has been amended to include the limitation that each gliding arm has a longitudinal axis “that extends away from the midline at an angle.” Independent claim 11 already includes the limitation of “a pair of inferior gliding arms extending downwardly from the lower portion of the plate on respective sides of the midline at outward angles.”

Such limitations are clearly not met by the cited Lumb reference.

The Examiner’s statement on page 4 of the OA that “[e]ach gliding arm [54 of Lumb] extends downwardly and away from the midline at an angle” is without support. According to Lumb, “[t]wo such arches 54 are fastened at their mid-points through elongate central slot 56 to slot 42 in the stem 28 of the middle unit 10*b* in the same manner as brace 46 in FIGURE 1.” (‘364 patent, 4:50-55). Figure 1 of Lumb is reproduced below. Applicant has added a midline, “M.” The braces 46—and the braces 54—are clearly parallel to one another. They do not “extend downwardly and away from the midline at an angle.” The structure of Lumb does not, and cannot, accommodate lateral bending. Nor does the upper portion of the plate utilize “pedicle fixation,” as suggested by the Examiner at the top of page 4 of the OA. The Lumb structure uses no pedicle screws at all.

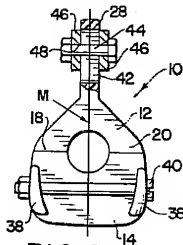


FIG. 2.

Based upon the foregoing, Applicant believes that all pending claims are now in condition for allowance. Questions may be directed to Applicant's attorney at the telephone and/or facsimile numbers provided below.

Respectfully submitted,

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